

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Colin Gardner	Team: Squad #4	CCRB Case #: 201603094	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/01/2016 9:19 PM, Friday, 04/15/2016, Saturday, 04/16/2016, Saturday, 04/23/2016	Location of Incident: The rooftop of § 87(2)(b)	Precinct: 88	18 Mo. SOL 10/1/2017	EO SOL 10/1/2017	
Date/Time CV Reported Sat, 04/02/2016 8:10 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/11/2016 11:49 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Forrester	26915	957596	PSA 3
2. POM James Hickman	27081	957675	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A.POM James Hickman	Force: Police Officer James Hickman pointed his gun at § 87(2)(b)	§ 87(2)(b)
B.POM James Hickman	Discourtesy: Police Officer James Hickman spoke discourteously to § 87(2)(b)	§ 87(2)(b)
C.POM Kevin Forrester	Abuse: Police Officer Kevin Forrester threatened to arrest § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

### Case Summary

On April 1, 2016, at approximately 9:19 p.m., § 87(2)(b) used an access point from § 87(2)(b) to connect to the rooftop of her residence, § 87(2)(b) in Brooklyn. The buildings are part of the Ingersoll New York City Housing Authority development. § 87(2)(b) was not authorized to use this access. PO James Hickman and PO Kevin Forrester of Police Service Area 3 (PSA 3) were conducting a vertical on the rooftop. PO Hickman pointed his firearm at § 87(2)(b) on the rooftop of § 87(2)(b) in Brooklyn (**Allegation A**). PO Hickman allegedly said to § 87(2)(b) “You’re not allowed to be on the fucking roof” (**Allegation B**). PO Kevin Forrester threatened to arrest § 87(2)(b) for being on the rooftop (**Allegation C**). § 87(2)(b) was not arrested or issued any summonses regarding this incident.

§ 87(2)(g)

### Video Footage

There is no video footage for this incident.

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation § 87(2)(b).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of May 12, 2016, § 87(2)(b) did not file a Notice of Claim regarding this incident (see **Board Review 7**).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) § 87(2)(b)
- PO James Hickman has been a member of the service for 1 year and this is the first complaint filed against him.
- PO Kevin Forrester has been a member of the service for 1 year and this is the first complaint filed against him.

### Findings and Recommendations

#### **Allegation A – Force: Police Officer James Hickman pointed his gun at § 87(2)(b)**

The following facts are undisputed. § 87(2)(b) resides at § 87(2)(b) where the elevators were broken at the time of the incident, so she decided to take the elevator to the top floor of § 87(2)(b) where she would be able to cross the rooftop and enter § 87(2)(b). § 87(2)(b) took the elevator to the top floor of § 87(2)(b) in Brooklyn and was accompanied by her friend § 87(2)(b) who had two other children with her, and § 87(2)(b)s § 87(2)(b) daughter, § 87(2)(b). The rooftops of § 87(2)(b) and § 87(2)(b) are connected, and there are doorways that lead down to both buildings. § 87(2)(b) reached the top floor of § 87(2)(b) and walked up the stairs that lead to the rooftop with § 87(2)(b) and the three children. As § 87(2)(b) reached the top of the stairs and started to open the door, PO Hickman stood directly on the other side of it with his gun pointed at

§ 87(2)(b) and said, “Freeze, don’t move.” PO Forrester was standing behind PO Hickman when PO Hickman had his gun pointed at § 87(2)(b) and § 87(2)(b) was still standing on the stairs with the three children behind § 87(2)(b). § 87(2)(b) was very frightened at that point and told PO Hickman, “Please don’t shoot, I have my children with me” (see **Board Review 1**).

§ 87(2)(b) did not participate in the investigation (see **Board Review 4**).

PO Hickman stated that he and PO Forrester were on the rooftop conducting a vertical for approximately 30 minutes before they each heard a commotion coming from the direction of the door that leads out to the rooftop. This door was made out of heavy metal and was closed at the time. PO Hickman and PO Forrester were approximately six to ten feet away from this door when they heard the commotion, which consisted of multiple voices and sounded like individuals walking up the stairs. No specific statements could be heard. PO Hickman did not know who these individuals were that were approaching the door and he feared for his safety. There have been multiple shootings on the rooftop of NYCHA buildings in recent months, and some of them took place in the vicinity of this building. The rooftop door started to open, and PO Hickman drew his firearm and then pointed it towards the opening door. PO Hickman was standing approximately ten feet away from the doorway while his firearm was drawn. PO Forrester was standing approximately ten feet behind PO Hickman as the door started to open. As the door was opening, § 87(2)(b) was on the other side of it yelled, “Hey.” PO Hickman believed that he may have said, “Stop,” as the door to the rooftop was opening. The rooftop door opened outward and towards both officers. After the door opened, PO Hickman observed that § 87(2)(b) was with § 87(2)(b) and four children that were standing behind her. § 87(2)(b) said, “Please don’t shoot, I have my children with me,” after the door opened. PO Hickman’s firearm was still pointed in the direction of the door that just opened at this point. PO Hickman did not point his firearm at § 87(2)(b) but he kept the gun pointed in the direction of the door that § 87(2)(b) had just opened. Once PO Hickman observed § 87(2)(b) and the children, he immediately holstered his firearm because he realized the situation was non-threatening and there was no criminal activity. PO Hickman’s firearm was out of his holster for approximately five seconds during this incident (see **Board Review 2**).

PO Forrester § 87(2)(g) indicated that he also feared for his safety for the same reasons. However, he did not draw or point his firearm since PO Hickman would have been in his line of fire (see **Board Review 3**).

According to *PD v. Gliner*, an officer may draw his firearm and point it at another individual if they have a reasonable fear for their own safety or another’s personal safety. The determination as to when that exercise of discretion rises to the level of misconduct must be made by assessing the reasonableness of the officer’s actions in the totality of the surrounding circumstances (see **Board Review 8**).

§ 87(2)(g)  
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**Allegation B – Discourtesy: Police Officer James Hickman spoke discourteously to § 87(2)(b)**

Upon exiting to the rooftop, § 87(2)(b) explained to Hickman she was with children and not to shoot. PO Hickman allegedly responded, “You’re not allowed to be on the fucking roof.”

PO Hickman stated that he may have said, “Stop,” as § 87(2)(b) was opening the door to the rooftop. After PO Hickman realized the situation was non-threatening, he holstered his weapon and informed § 87(2)(b) that she was not allowed on the roof per NYCHA rules, and § 87(2)(b) was crying hysterically at that point. PO Hickman denied using any expletive.

PO Forester did not hear PO Hickman use any profanity during this incident.

§ 87(2)(g)

**Allegation C – Abuse of Authority: Police Officer Kevin Forrester threatened to arrest**

§ 87(2)(b)

It is undisputed that § 87(2)(b) was not authorized to be on the rooftop and that both officers explained to her NYCHA regulations concerning restricted areas. § 87(2)(g)

After PO Hickman apologized to § 87(2)(b) for pointing his gun, PO Forrester allegedly said, “I still should lock you up because you’re not even supposed to be up here.” § 87(2)(b) reiterated her explanation about her daughter’s disability and asked PO Forrester why he would lock her up while she had children with her. PO Forrester told § 87(2)(b) that he did not care, and “You’re still breaking the law by being up here on this roof. Do not cross this roof anymore; next time take the stairs.”

PO Forrester confirmed they discussed the rules and regulations pertaining the NYCHA. PO Forrester denied threatening to arrest § 87(2)(b). PO Forrester and PO Hickman used their discretion and did not issue § 87(2)(b) any summonses for accessing the roof of this NYCHA building.

PO Hickman corroborated PO Forrester’s testimony.

According to Rule # 19 under the NYCHA Highlights of House Rules, no persons (residents included) are permitted in restricted areas, which include roofs, roof landings, and maintenance rooms, except for authorized or emergency personnel (**see Board Review 9**).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date